

From: David A. Cobb
To: Microsoft ATR
Date: 1/11/02 10:49pm
Subject: Microsoft Settlement

Gentlefolk:

I am a professional software developer of over thirty years experience. Thus I have watched, and been affected by, many of the changes in the business of information technology during a period when it has changed dramatically. The desktop platform has not, until recently, been a major focus of my work; however, I have been a user of desktop systems for about twelve years and have used a considerable variety of both Microsoft and competing products.

Microsoft is certainly capable of producing good software. So are many others. However, Microsoft does not consistently do so, because, in my opinion, they don't need to be good to win. This is a most deplorable situation for both business users and developers. So long as one company remains "the only game in town," American software products will be somewhat less than they could become.

I have watched from the sidelines as one competitor after another has been crushed. Sometimes, to be sure, it was because they could not produce a product as good as or better than a Microsoft product. But often it was for other reasons having little to do with the technical merits of the products.

Microsoft can easily afford to give away software, as they have done with their Internet Explorer. Likewise, their "deals" with OEM system builders lets them put their products in the hands of users at a perceived price no competitor can match. Even without the economic muscle provided by Microsoft's wealth and monopoly power, the production of software invites this sort of marketing -- however high the cost of initially developing a product, the cost of reproducing it is practically nothing.

I have read the Proposed Final Judgement with bemused dismay. I am no lawyer and don't pretend to understand all of it. But it seems clear that this is barely a "slap on the wrist." Microsoft is hardly constrained from continuing its version of "business as usual." This seems extraordinary in the face of a strong judgement that they have indeed routinely engaged in unlawful business practices.

My memory reaches back over many years of this business to a time when IBM was the "2000 pound gorilla," and was constrained in several ways by one or another consent decree. A part of the means used then seems very appropriate now: *I recommend that the PFJ be amended to require the complete unbundling of operating system software from (hardware) systems.*

Specifically, let the OEM builders construct their systems and then offer the consumer a choice of software *at retail prices* to be installed. This will immediately eliminate the consumer's illusion that the pre-installed Windows software, with all its newly bundled add ons,

is free. Let the consumer see that, for example, the hardware costs \$700, the Windows OS costs \$200 or a Linux OS costs \$50; the Internet Explorer browser is included in the OS, Netscape for Linux costs \$25, etc. I realize that the OEM's are not a party to the judgement; the terms would need to be something like: "Microsoft shall cause all software to be marked with the price at which it is to be sold, whether at retail or pre-installed, and shall not contract with any OEM or system integrator to imply that the pre-installed software is being provided free or at negligible cost." Further, Microsoft should be constrained to offer its software to any OEM or system integrator at a cost determined only by the volume of sales -- with no covenants concerning what software packages the OEM may elect to market with his systems.

This is the best opportunity the US will have for many years to come, to restore a measure of competitiveness in an industry that is becoming rapidly less competitive by the month. Please do not throw it away.

Sincerely yours,

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